

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Cleshon Joaquin Mack,

PETITIONER

v.

United States of America,

RESPONDENT

Crim. No. 4:04-cr-00582-TLW-1

C/A No. 4:16-cv-01818-TLW

Order

Petitioner Cleshon Joaquin Mack pled guilty to two counts of using a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. § 924(c), and he was sentenced to a total of 24 years incarceration, consisting of 7 years on one count and 17 years consecutive on the other count. ECF No. 125. Both of his § 924(c) convictions were related to carjackings, in violation of 18 U.S.C. § 2119. In his § 2255 petition, he asserts that carjacking is not a valid § 924(c) predicate conviction in light of *Johnson v. United States*, 559 U.S. 133 (2010) and *Johnson v. United States*, 135 S. Ct. 2551 (2015), and that he therefore “pled guilty to a non-offense over which this court did not have jurisdiction.” ECF No. 181 at 4.

The Fourth Circuit has now foreclosed Petitioner’s argument, holding that “the carjacking statute qualifies as a crime of violence under Section 924(c), because the carjacking statute ‘has as an element the use, attempted use, or threatened use of physical force against the person or property of another.’” *United States v. Evans*, 848 F.3d 242, 244 (4th Cir. 2017) (quoting 18 U.S.C. § 924(c)(3)(A)). Accordingly, Petitioner’s petition for relief pursuant to § 2255, ECF No. 181, is **DENIED**. This action is hereby **DISMISSED**.¹

¹ A response from the Government is not required because “the motion and the files and records

The Court has reviewed this petition in accordance with Rule 11 of the Rules Governing Section 2255 Proceedings. In order for the Court to issue a certificate of appealability, Rule 11 requires that Petitioner satisfy the requirements of 28 U.S.C. § 2253(c)(2), which in turn requires that he “has made a substantial showing of the denial of a constitutional right.” The Court concludes that he has not made such a showing, and it is therefore not appropriate to issue a certificate of appealability as to the issues raised in this petition. Petitioner is advised that he may seek a certificate from the Fourth Circuit Court of Appeals under Rule 22 of the Federal Rules of Appellate Procedure.

IT IS SO ORDERED.

s/ Terry L. Wooten
Terry L. Wooten
Chief United States District Judge

November 1, 2017
Columbia, South Carolina

of the case conclusively show that [Petitioner] is entitled to no relief” 28 U.S.C. § 2255(b).